

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE UNDER 37 C.F.R. §1.10

I hereby certify that the documents enclosed herein are being deposited with the United States Postal Service on this 3rd day of February, 2005 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV114073297US addressed to: MAIL STOP PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.


Michelle Ludwig

In re application of: Cavato et al.) Examiner: Unknown
)
Serial No.: Unknown; PCT US 03/22860) Group Art Unit: Unknown
)
Filed: February 3, 2005) Conf. No. Unknown
)
For: Corn Event PV-ZMIR13 (MON 863) Plants)
and Compositions and Methods for Detection)
Thereof)

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23 AUG 2005

Legal Staff
International Division

**Petition for Revival of an Application for Patent
Abandoned Unintentionally Under 37 CFR §1.137(b)**

The above captioned patent application, filed contemporaneously with the filing of this Petition on February 3, 2005, became unintentionally abandoned for failure to file the application in response to the reminder to file such application by Saturday January 29, 2005, received as PCT Form PCT/IB/332 (September 1997) from the US Patent and Trademark Office through the PCT International Bureau on July 20, 2004, and mailed to the Applicant on July 14, 2004, a copy of which is attached hereto. The date of abandonment is the day after the expiration date of the period set for reply in that office notice or action, which the International Bureau identified in paragraph 3 of that notice as requiring that the application be filed before the expiration of 30 months from the priority date of July 29, 2002. It is believed that the US Application was deemed filed when the PCT application was filed, designating the US. This is supported by the 5 pages of PCT Demand, attached hereto as PCT Form PCT/IPEA/401(January 2004), filed July 23, 2003 with the US Receiving Office, but which contains a typographical error indicating that the international filing date was July 23, 2002. Further support is found in PCT Form PCT/IB/332 paragraph 1, indicating that the US was a designated state and that the international filing date was July 23, 2003. The application was unintentionally abandoned when the national stage papers were not filed by the 30-month date of January 29, 2005. The entire delay was unintentional. The Petitioner submits that the evidence


indicating that the entire delay was unintentional is as follows: The Applicant filed a US Provisional Patent Application July 29, 2002, and followed that with a PCT application filed July 23, 2003 designating the US, with the intent to enter the US and other national offices before the expiration of 30 months from the priority date. The Applicant's intent to enter into the US is further supported by the listing of the individual inventor's names and addresses, even though the Application had been previously assigned to the first named Applicant, Monsanto Technology, LLC. Inventor/Applicant's are only required for PCT applications when the Applicant intends to enter the national phase in the US. The Applicant entered national phase, before the expiration of 30 months from the priority date, in several offices other than the US. The Applicant noticed late in the evening on February 2, 2005 that the US was unintentionally not included when national phase was perfected in the other offices, and promptly acted in the morning on February 3, 2005 to perfect national phase entry into the US, along with this petition to revive the unintentionally abandoned application. It is believed that such petition is allowed and allowable under 37 CFR §§ 1.137(b) and under the PCT Rules at Rules 82bis.2 and 48(2)(a), along with payment of the appropriate fee under 37 CFR §1.17(m). The entire delay was unintentional. The above-identified application became abandoned for failure to file a timely and proper reply to a notice by the United States Patent and Trademark Office through the PCT International Bureau.

It is believed that this Petition is grantable because

- (a) the Applicant herewith authorizes the Office to charge the fee required with this Petition under 37 CFR §1.17(m) to Applicant's Deposit Account 13-4125,
- (b) the Applicant has filed the national phase application papers contemporaneously with this petition,
- (c) no terminal disclaimer is believed necessary because the application is a utility application filed *after* June 8, 1995, and
- (d) this Petition contains the statement that the entire delay was unintentional.

It is respectfully requested that the Office grant this Petition and examine the contemporaneously filed application on the merits.

Respectfully submitted,



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